



Norman H. Bangerter

Governor

Dee C. Hansen

Executive Director

Dianne R. Nielson, Ph.D.

Division Director

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple

3 Triad Center, Suite 350

Salt Lake City, Utah 84180-1203

801-538-5340

October 22, 1990

TO: File

FROM: Tony Gallegos, Reclamation Engineer and *day* *HLOS*
Holland Shepherd, Reclamation Specialist

RE: Site Inspection, ViPont Mines, Ltd., ViPont Mine, D/003/007, Box Elder
County, Utah

Inspection Date: October 17, 1990

Time: 2:30 - 5:00 p.m.

Attendees: Tony Gallegos and Holland Shepherd, DOGM

This inspection was prompted by inquiries from the Bureau of Water Pollution Control regarding the status of the mine site.

Several attempts had been made to contact the operator, Thomas F. Miller, via phone prior to the visit. One attempt was successful at reaching a relative on September 27, 1990 to leave a message, although it was not known when Mr. Miller would be back.

Public access to the site was restricted by a locked cable gate approximately 3 miles down stream along Birch Creek from the mine site. Mr. Ardell Simper of Oakley, Idaho had leased the hunting rights to the property and allowed us access. Another gate was located 1 mile downstream from the site, which was open and unlocked. No one else was at the mine site during our visit.

The site showed no signs of recent mine activity. Plastic from collection pond liners was blown about and the buildings showed signs of vandalism. The site was in general disarray with trash, scrap metal, plastic piping and metal drums located throughout the site. No liquids were contained in the earthen collection ponds or the three collection tanks. A collection of similar black metal barrels, believed to have originally contained cyanide (cynobrick brand name manufactured by DuPont), was located near the tanks. Several overview and detail photos were taken of the site.

Water samples were taken from Birch Creek from three locations: 1) upstream from the ViPont site, 2) immediately downstream from the ViPont site, and 3) immediately downstream from the old tailings area, which the stream runs directly through. The samples were collected to evaluate cyanide, metals and general parameters such as TDS, TSS and Ph.

Our analysis of the file history addressing this site indicates that the operator may be in gross violation of the Act. This particular file contains a long history of the operators reluctance to permit and bond the ViPont site.

Mr. Miller filed a Notice of Intent and a Mine Reclamation Plan in September of 1977, for a 3.7 acre disturbance. Later Mr. Miller made a formal request to the Division of Oil, Gas and Mining in July, 1977, asking that he be allowed an exemption from the Act. In a letter from the Division dated July 7, 1977, Mr. Miller was advised that the Vipont site would not qualify as a DOE. Later, on July 20, 1977, during a Hearing with the Board of Oil, Gas and Mining, Mr. Miller was again advised that he would be required to follow the regular procedure for filing a mine plan under the Act. This requirement included the posting of a bond. It is apparent, from this action, that the Board did not consider the mine site eligible for DOE status either.

After the Boards decision, the file indicates a long history of letters and phone calls between the operator and Division showing the operators increasing reluctance and antagonism towards the Division's requests to submit a surety and permit information. Eventually a tentative approval was given by the Board on April 26, 1979. At that time, the Board again stated that a reclamation surety would be required for both the mining and a disputed tailings removal operation. The bond amount at that time was for \$9,477. The operator never followed through with this requirement, although the file history indicated he was asked several times to do so: March 31, 1983, March 18, 1985 and June 10, 1985.

Following a letter from the Division dated June 10, 1985, indicating that the operator might qualify for a DOE, the operator filed a DOE on July 15, 1985. On September 6, 1985, Pam Grubaugh-Littig, Jim Fricke and Glen Baldwin of DOGM conducted a site visit to the ViPont mine. They surveyed the site, coming up with an estimate of 6.57 acres disturbance.

Although it is not quite clear why, from the correspondence found in the file, the Division apparently accepted the ViPont mine as a DOE, in a letter dated September 24, 1985. In this letter, the Division stated to the operator that a follow-up

Page 3
ViPont Mines
D/003/007
October 22, 1990

survey will be conducted the next year to see if more than two acres had been disturbed since the last survey. On July 22, 1986, another follow-up survey was performed by the Division. No further disturbance beyond the 6.7 acres was detected at that time.

Apparently, after the operator's submittal of the DOE in July of 1985, and the Division's acceptance of it, no further requests were made of the operator or action threatened by the Division. And, no further action was taken by the operator either, to stabilize or reclaim any portions of this site. The site sits today, barren, eroding, littered with debris, portals ungated, 50 gallon drums scattered about, some still containing process chemicals and posing an environmental hazard to a perennial stream and fish hatchery.

As indicated above, the file records show that there has been some confusion regarding the status of DOE for this site. However, the original Board and Division decision in 1977, did require the operator to address the requirements of the Act. Also, the total disturbance is currently over 5 acres, as indicated by the Division's September 6, 1985 memo. We recommend that the Division re-initiate the process of a large mine approval.

Because the operator was led to believe that he had a DOE, it would be unfair, at this point, to initiate a Notice of Agency Action against him. However, we do recommend that the Division take immediate steps in securing another reclamation plan and a reclamation surety from Mr. Miller. The original plan is lacking in substance, and no bond was ever filed. The operator should be contacted by certified letter and asked to meet here at the Division, to discuss permitting of the site and the environmental concerns pertinent to the operation's continued state of suspension/inactivity.

jb
cc: Wayne Hedberg
MND003007.1

CASE HISTORY- THOMAS F. MILLER and BURLEY DISTRICT BLM

5-4-1990- Thomas F. Miller was issued a Notice of Noncompliance for failure to comply with 43 CFR 3809 regulations, for failure to submit a Notice of Intent prior to performing surface disturbance activities. A total of about one mile of new roads and dozer cuts were constructed on unpatented mining claims (David #13 and 14). Several cuts from the rim had been made to access a talus slope, with no regard to topography or drainage. The area is moderately heavily timbered with Juniper trees, which he bull-dozed over. Miller was given until May 11, 1990 to submit the Notice.

5-11-1990- Notice of Intent submitted. The cover letter says "There will be very minimal disturbance to the area and would, in my opinion, fall under the category of 'Casual Use,' as only a limited amount of surface stone is removed, with a very limited disturbance to the environment."

7-22-1991- BLM employees found a yellow dump truck in the Cedar Creek drainage, at the base of a hill. The hill had a road going up it (previously existing). A subsequent investigation revealed that Miller had been using heavy equipment to access parts of other (unpatented) mining claims, the Jana 1-10 claims. Again numerous trees had been cut or dozed over. No prior notification, as required by 43 CFR 3809, had been given. Aerial photographs showed that the roads had been built or upgraded since June 10, 1990 and that they crossed State of Idaho lands as well as BLM. The State of Idaho was notified.

7-29-1991- Miller hand-delivered a Notice of Intent for the work on the Jana claims.

10-6-1991- BLM employees found an overturned loader at the end of a freshly made "road" which cut from the rim of a small canyon straight into the canyon (approx. 180 feet). The cut was 16 to 21 feet wide- wider than what would be needed for a pick up truck to access the adjacent talus slope.

10-18-91 (received by Miller on this date)- Notice of Noncompliance issued (see attached). On this date, Miller came into the office and discussed the matter with the acting Area Manager (at the time) and Karen Shilling, Snake River Resource Area Geologist. The prior notification issue was discussed, as well as reclamation plans.

7-9-1993- BLM wrote to Miller warning him that the amount of disturbance was approaching the 5-acre limit for a Notice of Intent and suggesting that he begin doing some reclamation work. He came into the office and was pretty agreeable about doing the work.

1-7-1993- BLM received a letter from Miller saying that reclamation work had been done in several areas of both claim groups.

8-8-1994, 9-9-1994- Compliance inspections were performed. No reclamation work, as stated in Miller's letter, could be found. In the meantime, the David claims had been determined to be null and void, for failure to file the small miners exemption in a timely manner.

9-12-1994- BLM wrote Miller a letter stating that no reclamation work could

be found and asking him to contact BLM. The Certified Mail Receipt was returned (signed by his wife) but he never contacted our office.

10-17-1994- BLM receives a report from a rancher in the area that someone was widening the Little Birch Creek road, using a D-8 bulldozer. The rancher reported that material was reaching the creek and that the road was very poorly constructed and unnecessarily wide. He suspected that it was Mr. Tom Miller doing the work, as Miller has a mine on patented ground (the Vipont Mine) up the road, in Utah. [Note: Miller worked this mine, re-processing old silver tailings, for several years and made alot of money at it, but its been inactive since at least 1991. Little Birch Creek road was the access at that time].

10-18-1994- Jim Hart and Karen Shilling went down to Little Birch Creek road and encountered the dozer approximately 1 1/4 miles from the main road. Miller had contracted High Country Construction to do the work. There were two men, who said they'd been working on the road from the mine for 2 weeks and two days. The man who was operating the dozer said that he asked Miller about whether he'd contacted the BLM concerning the work and Miller replied that it was all private land and not to worry about it. He also stated that they started out trying to keep the road width to a minimum, but Miller came out and told them that he was going to have large trucks travelling the road, and that they should make it wider and straighten out curves, etc.

Hart and Shilling mapped the road using a Global Positioning System (GPS) and video-taped some of the disturbance. Three and one-half miles of road on Idaho BLM were disturbed, as well as 1.33 miles of Utah BLM and 0.5 miles of State of Utah. The road, which had previously been a two-track road, is now between 15 to 40 feet wide, with numerous cut banks. Some riparian vegetation was clipped by the dozer, but it's pretty minor. Shilling could not see any places where material actually reached the creek, although it is close. Spring runoff may change this.

Hart & Shilling